

Appl. No. 10/577,365  
Amendment dated 11/13/2008  
Reply to Office Action of 06/13/2008

### **Remarks**

#### **Oath/Declaration**

This application is a U.S. national stage filing under 35 U.S.C. §371 of PCT Application No. PCT/US2004/032518 filed on October 4, 2004, which claims the benefit of U.S. Provisional Patent Application No. 60/525542.

Applicant believes the declaration submitted with PCT/US2004/032518 was proper, as filed with the PCT application.

#### **Election/Restrictions**

The application was asserted to contain claims directed to more than one species of the generic invention, as indicated on page 2 of the 6/13/2008 office action.

Applicant affirms provisional election of species to (i) the hydroxy endblocked siloxane oligomer composition step of claims 1 and 8.

#### **Claim Objections**

The numbering of the previously submitted claims was not in accordance with 37 CFR 1.126. In particular, claim 14 was missing.

Applicant has cancelled previously numbered claims 15 and 16. Claims 1 – 13 remain in the application.

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**Rejections under 35 U.S.C. 103**

Claims 1-3, 5-6, and 15-16 were rejected as being unpatentable over Gee (US 6,316,541) in view of Tamori et al. (EP 1172412).

Applicant respectfully submits that the instant claims define an invention which is unobvious over Gee in view of Tamori.

Applicant respectfully submits the 103 rejection does not provide a sufficient factual inquiry of obviousness as stated in *Graham v. John Deere Co*, and further described in the Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in view of the Supreme Court Decision in KSR v. Teleflex Inc., (Federal Register/Vol. 72, No. 195, pages 57526-57535). In particular, Applicant respectfully submits the above rejection fails to determine the scope and content of the prior art, and subsequently fails to ascertain the differences between the claimed invention and the prior art. Applicant therefore respectfully submits that the above rejection fails to establish a prima facie case of obviousness.

Applicant agrees that Gee indeed teaches a method for making polysiloxane emulsions using emulsion polymerization but does not disclose adding to its emulsions or processes components for preparing an emulsion containing an organic polymer by free radical emulsion polymerization of one or more ethylenically unsaturated organic monomers.